HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION NO. 24766 OF 2006

DATE: 07.09.2007

Between:

Syeda Mujeeba Fathima D/o Syed Shah Baquer Hussain, aged about 21 years.

...Petitioner

AND

1. The Regional Passport Officer, Ministry of External Affairs, Government of India, Kummarguda, Secunderabad.

.....Respondent

HON'BLE SRI JUSTICE P.S. NARAYANA

WRIT PETITION NO. 24766 OF 2006

ORAL ORDER:

Heard Ms. K. Surekha representing Mr. C. Damodar Reddy, counsel for the petitioner.

This Court ordered Notice before admission on 29.11.2006 and on 6.9.2007 this Court ordered Rule Nisi and Call for Records.

The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondent in issuing a letter in File No. Hyd.EO1783306, dated 11.7.2006 insisting for court orders for the correction of date of birth in the passport as bad, arbitrary and discriminatory and consequently direct the respondent to correct the date of birth of the petitioner as 29.8.1986 in her passport bearing No. F 780613 as per Secondary School Education Certificate and issue corrected passport to the petitioner, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

The petitioner states that she is a resident of Hanumakonda, Warangal District, and studying B. Pharmacy Course. It is also stated that her date of birth is 29.8.1986 and her educational record clearly reflects the same including the Secondary School Education Certificate. It is also stated that when she was a minor her father applied for the passport through an agent with the respondent and after completing all the formalities and enquires the respondent has issued passport to the petitioner on 21.8.1989 which is valid up to 23.5.1994 vide passport No. F 780613. She states that recently she noticed that in her passport her date of birth is mentioned as 29.4.1985 instead of 29.8.1986. She further submits that the said mistake was crept in the application form which was in fact filed by the agent, through her father informed him about her correct date of birth.

It is also further stated on 5.6.2006 the petitioner applied for correction of date of birth in the passport as per the date of birth of Secondary School Education Certificate, but the office of the respondent instead of considering her representation as per the guidelines issued by the Government of India, has sent a letter in File No. Hyd EO 1783306 dated 11.7.2006 insisting her to furnish court orders for the correction of the date of birth in the passport. It also stated that the Government of India, Ministry of External Affairs has issued a Circular dated 18.4.2001 giving instructions/clarifications and the said circular reads as under:

"As per the current practice, in case of change of date of birth/place of birth, the applicant is required to produce the original declaratory order from a first Class Judicial Magistrate. However, in view of the recent judgment given by the High Court of Judicature at Mumbai in CWP NO. 1072 of 2000 filed by Shri Jigar Harish Shah, the following clarifications are issued:

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in

such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the general clauses Act 1997, a competent authority issuing a Certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth."

It is also brought to the notice of this Court that appropriate orders have been passed in similar Writ Petitions reported in MOHD. NASRULLAH KHAN VS. REGIONAL PASSPORT OFFICER, HYDERABAD[1], a learned judge of this court at paragraph Nos. 4,5,6 and 7 observed as under:

" (4) in Ali Imran Vs. Regional Passport Officer, Secunderabad, 2003 (3) ALD 625, I have considered the circular dated 18.4.2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment of the High Court of Judicature at Bombay in Civil Writ Petition No. 1072 of 2000. The instructions/clarifications issued in the said Circular read as under:

(a) Where an applicant is seeking rectification/correction of a mistake in the entry on date of biorth/place of birth in the passport, PIA (Passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

(b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act. 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

(c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e. Municipal Authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.

(5) In view of the above clarifications, I disposed of the said case observing as under:

Be it noted that under the provisions of the passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per Clause© above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by

another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the Civil Court.

(6) In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1.4.1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dated 18.4.2001.

(7) Following the judgment of this Court in Ali Imran (supra), this Writ Petition is also disposed of directing the respondent to consider the application of the petitioner along ith the Secondary School Certificate No. PC/01/0190544/2 PRIVATE, issued by the Secretary, Board of Secondary Education, Andhra Pradesh, Hyderabad, and pass appropriate orders in the light of the observations made in the above judgment. There shall be no order as to costs."

This court also expressed the same view in Writ Petition Nos. 15463 and 15464 of 2007 by an order-dated 6.9.2007 in SYED GHALIB JAMEEL VS. THE REGIONAL PASSPORT OFFICER, STATION RAOD, SECUNDERABAD.

In the light of the circular referred supra and also the decisions specified above, this Writ Petition is also disposed of directing the respondent to consider the application of the petitioner for correction of date of birth of the petitioner as 29.8.1986 in the passport of the petitioner bearing No. F 780613 as per Secondary School Education Certificate, in accordance with law at the earliest point of time preferably within a period of four weeks from the date of receipt of a copy of this order.

P.S. NARAYANA, J

Date: 07.09.2007
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[1] 2005 (1) ALD 419